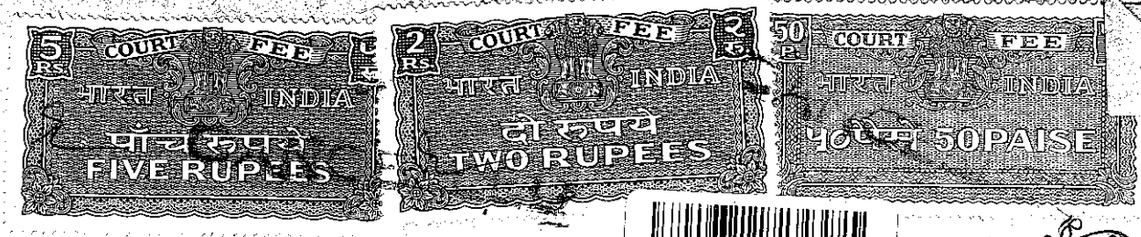

CF0000057561

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR.

Criminal Appeal No. 855 /1989.

Single Bench (Criminal)

APPELLANT :- Manjulal alias Suresh Kumar S/o Shri Mayaram Nagarchi, aged about 25 years, R/o village-Baroda, P.S.-Razim, District-Raipur.

: VERSUS :

RESPONDENT :- State of Madhya Pradesh

CRIMINAL APPEAL UNDER SECTION 374(2) OF CRI.P.C.

(32)

YOGENDRA SINGH KANWAR
Digitally signed by YOGENDRA SINGH KANWAR
Date: 2025.02.20 16:14:59 +0530

HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr. Appeal No.855/1989

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Manjulal

Versus

State of Chhattisgarh

Shri S.C. Verma, learned counsel for the appellant.

Shri A.S. Kachhwaha, Govt. Advocate for the State/respondent.

ORAL JUDGMENT

(Delivered on 17th August, 2006)

This appeal is directed against the judgment dated 25.8.1989 delivered by Shri Ramkrishna Behar, learned 4th Addl. Sessions Judge, Distt. Raipur (CG) in Sessions Trial No. 229/1987 whereby the appellant was convicted under Section 354 IPC for using criminal force on Vimla Bai to outrage her modesty on 7.8.1987 at about 8.15 a.m. and was sentenced to undergo rigorous imprisonment for 1 year. The appellant was convicted under Section 324 IPC for voluntarily causing hurt to Hiro Bai by means of a sharp instrument i.e. knife and was sentenced to undergo R.I. for 1 year. The appellant was further convicted under Section 324 of IPC for voluntarily causing hurt to Vimla Bai on her stomach by means of a knife and was sentenced to undergo R.I. for 3 years.

2. Brief facts are that on 7.8.1987, at about 6 a.m. Vimla Bai PW-1 had gone to the field to pluck vegetables with her

(83)

Aunt Hiro Bai PW-2. The appellant came there and asked the way to the village. On being told, the appellant left the place but returned again at about 8.15 a.m. and held the hand of Vimla Bai intending to outrage her modesty. Vimla Bai shouted. The appellant stabbed her in the stomach on the left side with a knife. Vimla Bai fell unconscious. Hearing her shouts, Hiro Bai came to the spot and held the knife of the appellant due to which she also sustained two abrasions over back of right hand below the base of thumb and another linear abrasion over anterolateral aspect of right thumb.

3. F.I.R. was lodged by Vimla Bai at P.S. Rajim vide Ex.P-1 on 7.8.1987 at 11.30 a.m. On medical examination, Dr. Chawla PW-8 found an incised wound over upper part of anterior abdominal wall left side horizontally situated 5 cm above and 4 cm lateral to umbilicus size 1 ½ x ½ cm on Vimla Bai. Dr. Chawla PW-8 opined that the injury could have been caused by a hard and sharp instrument. Upon x-ray no pneumoperitonitis was found in the abdomen of Vimla Bai. Dr. Chawla PW-8 examined Hiro Bai on the same day and found the abrasions as mentioned aforesaid. After completion of investigation, the appellant was prosecuted.

4. The appellant abjured the guilt, pleaded innocence and led no evidence in defence. The prosecution examined as many as 8 witnesses. Relying upon the evidence led by the prosecution, the learned trial Judge convicted and sentenced the appellant as aforesaid in para 1.

(84)

5. Learned counsel for the appellant has at the very outset, stated that he does not assail the impugned judgment on merits, but, would argue only on the question of sentence.

6. In view of the above submission, this appeal was heard only on the question of sentence. Shri S.C. Verma, learned counsel for the appellant submitted that the appellant after his arrest was in jail since 8.8.1987 to 13.10.1987 and had thus undergone incarceration for a period of 2 months 5 days. It was stated that the incident took place in the year 1987 and the appellant had suffered lot of mental agony till now. Lastly, it was urged that the injury sustained by Vimla Bai was a simple injury and the injury sustained by Hiro Bai was merely a superficial injury and was not caused due to any assault made on her by the appellant. The appellant was a first offender and in view of the aforesaid circumstances, interest of justice would be served if the sentence awarded by the learned trial Judge was suitably reduced to period already undergone.

7. On the other hand, Shri A.S., Kachhwaha, learned Govt. Advocate argued in support of the impugned judgment and contended that the sentence awarded by the learned trial Judge did not call for any interference.

8. Having heard the rival submissions, I have perused the record of Sessions Trial No. 229/1987. There is overwhelming evidence on record to show that the appellant had gone to the field and with intent to outrage modesty of Vimla Bai, had held her hand. Thereafter, upon her shouts, the appellant assaulted

(36)

her with a knife on her stomach. The testimony of Vimla Bai PW-1 is corroborated by Hiro Bai PW-2 as also by the medical evidence of Dr. Chwla PW-8. In this view of the matter, the conviction of the appellant under Section 354 IPC as also on two counts under Section 324 IPC is well founded and does not call for any interference.

9. So far as the question of sentence awarded by the learned trial Judge is concerned, the appellant had already undergone incarceration for a period of 2 months and 5 days. The injury sustained by Hiro Bai was a simple injury and not as a result of the assault made by the appellant but due to her holding the knife of the appellant and was superficial in nature. The injury sustained by Vimla Bai was also a simple injury. The x-ray report on record was not proved by the prosecution which also shows that there was no internal injury sustained by Vimla Bai in her abdomen. So far as the offence under Section 354 IPC is concerned, the evidence led by the prosecution shows that the appellant had merely held the hand of Vimla Bai and on her shouts, had assaulted her with a knife. The appellant thereafter, did not make any further effort to outrage her modesty. In view of the aforesaid circumstances, in my considered opinion, the interest of justice would be served if the appellant is sentenced to imprisonment already undergone by him for offences under Section 354 IPC and for each offence under Section 324 IPC and also to a fine of Rs. 3,000/- under Section 354 IPC and to a fine of Rs. 5,000/- for each offence under Section 324 IPC. In default of payment of

(36)

fine, the appellant herein shall undergo S.I. for 3 months on each count. Out of the amount of fine, a sum of Rs. 10,000/- shall be paid to Vimla Bai, D/o Dau Ram, R/o Barauda, P.S. Rajim, Distt. Mahasamund as compensation. The learned trial Judge is directed to issue notice to Dau Ram for ascertaining the matrimonial address of Vimla Bai and to ensure payment of compensation to her.

Sd/-
Dilip Raosaheb
Deshmukh
Judge

Priya